

## ENFORCEMENT & PROSECUTION POLICY

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### 1. STATEMENT OF POLICY INTENT

The intent of this policy is to establish a framework for enforcement and prosecution by Council.

### 2. DEFINITIONS AND ABBREVIATIONS

UNLAWFUL ACTIVITY	Is any activity or work that has been or is being carried out: (1) Contrary to the terms or conditions of development consent, approval, permission or other written authorisation from the Council; (2) Contrary to an environmental planning instrument that regulates the activities or work that can be carried out on particular land (3) Contrary to a legislative provision regulating a particular activity or work (4) Without a required development consent, approval, permission or the like (5) Contrary to New South Wales legislation for which the Council is the appropriate regulatory authority
COUNCIL	Wentworth Shire Council
POLICY	Enforcement & Prosecution Policy
OFFICER	Wentworth Shire Council employee
TRIM	Council Records Management System
LG Act	Local Government Act
EP&A Act	Environmental Planning & Assessment Act
POEO Act	Protection of the Environment Operations Act

### 3. POLICY

Wentworth Shire Council is committed to acting promptly, consistently and effectively in response to allegations of unlawful activity.

The purpose of this policy is to:

- Enable the Council to acknowledge its obligation under Section 8 of the Local Government Act 1993 to ensure that the regulatory powers are carried out in a consistent manner and without bias, and
- Provide a proactive policy statement regarding the enforcement of compliance with legislation and/or condition/s of development consent, and

Maintained by:	DSPE	Date Adopted by Council:	15/7/2009
File Number:	C9/7	Version No:	2
Previous Effective Date	25 July 2007	Date for Review	15/7/2010
Other Reference:	Nil		
Application:	All staff		
Attachments:	Nil		

- Foster prompt, consistent and effective action by the Council in response to allegations of unlawful activity whilst ensuring that the principles of natural justice are respected.

Wentworth Shire Council is committed to:

- (1) Acting in the interest of protecting community health and safety and/or the environment;
- (2) Acting consistently, fairly and impartially;
- (3) Preventing discrimination on the basis of race, religion, sex, national origin, political association or other personal reason/s;
- (4) Ensuring the proposed enforcement action is in keeping with the relative severity of the offence/s;
- (5) Ensuring enforcement action is taken against the right person for the correct offence;
- (6) Ensuring that any actual or potential conflict of interest situations are managed in a fair, consistent and impartially manner;
- (7) Disclosing all evidence relevant to the alleged offence/s;
- (8) Assisting the Court by providing all necessary information whether or not that information is in favour of the Council case;
- (9) Issuing cautions to the alleged offender/s, where necessary;
- (10) Making cost effective decisions concerning enforcement action having regard to the likely outcome at court;
- (11) Ensuring action is instigated within the specified time limits.

This policy applies to the investigation and enforcement of complaints about unlawful activity or failure to comply with the terms or conditions of approvals, licences and orders.

While primarily directed at the regulation of development activity, the policy is also applicable to pollution control, regulation of parking, control over animals, unauthorised development including buildings, non-compliance with development consent conditions, food safety, public health and safety issues, tree/s removal and land clearing.

#### 4. RESPONSIBILITY/ACCOUNTABILITY

It shall be the responsibility of the General Manager and the Directors to liaise with their staff and implement this policy within each of the Council departments.

The Manager Governance and Corporate Development shall have the responsibility to ensure compliance with, and reviews of, this policy.

All staff who deal with written and verbal action requests or complaints alleging unlawful activity are responsible for implementing this policy and any procedures made pursuant to this policy.

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All notifications of alleged unlawful activity will be logged and directed to the responsible person identified in Council's Delegation Register.

## 5. RELATED DOCUMENTS

### 5.1. ASSOCIATED LEGISLATION

Council staff delegated to initiate various levels of enforcement action are set out in Council's Delegation Register. The Acts applicable to the delegations are as follows and include any regulations made under the Act:

- Roads Act 1993
- Impounding Act 1993
- Companion Animals Act 1998
- Food Act 2003
- Public Health Act 1991
- Swimming Pools Act 1992
- Noxious Weeds Act 1993
- Rural Fires Act 1997
- Contaminated Land Management Act 1997
- Environmental Planning and Assessment Act 1979
- Local Government Act 1993
- Protection of the Environment Operations Act 1997
- Crown Lands Act 1989
- Water Supply Authority By-Laws

### 5.2. ASSOCIATED GOVERNMENT POLICY PROVISIONS

Enforcement Guidelines for Councils by NSW Ombudsman, June 2002.

### 5.3. ASSOCIATED COUNCIL DOCUMENTS

CP 20 - Delegation

Various Procedures relating to enforcement and prosecution

## 6. POLICY STATUS

This policy was formally adopted by Council on 15 July 2009 and commenced operation on 15 July 2009. This policy replaces the previous version adopted on 25<sup>th</sup> July 2007 and includes revisions to respond to the requirements of the DLG; to conform to the new template for policies; and to transfer processes from the policy to internal documents.

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**7. POLICY REVIEW**

This policy may be amended or revoked at any time and must be reviewed at least twelve months since its adoption (or latest amendment).

**8. AUTHORISATION**

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Position:       General Manager

Date:            ...../...../.....

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